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United States District Court
For The District of Massachusetts
DISTRICT OF MASS

Civil Action No. 04-12346 MLW

Markus L. Williams Sr.,
Plaintiff

✓

Grant Callender, Otis
Harrowood, Greg Long,
Brian Albert, Edward
Meade, John Conroy,
and the City of
Boston, (The Defendants)

Re: Plaintiff, Markus L. Williams' (the plaintiff's)
Memorandum of Law in opposition of Grant Callender, Otis
Harrowood, Greg Long, Brian Albert, Edward Meade, John
Conroy, and the City of Boston's motion to dismiss plain-
tiff's complaint pursuant to Fed. R. Civ. P. 12 (B) (6).

I. A Opening

The Defendants, Grant Callender, Otis Harrowood,
Greg Long, Brian Albert, Edward Meade, John Conroy, and
the City of Boston, (collectively the defendants), filed a
motion to dismiss the plaintiff's complaint on Dec. 3, 2004.
The Defendants believe that because of the conviction of

the plaintiff does not allege that his conviction for resisting arrest was overturned, or that he received a 'favorable termination' regarding the conviction." Therefore, the defendants are basically asking this Honorable Court to dismiss the plaintiff's complaint, solely because of his conviction and its in appeals Court. When in fact, the plaintiff's conviction is consistent with the allegations that they (the defendants), used excessive force at the time of the plaintiff's arrest. Therefore, the defendants motion to dismiss should fail.

II B.

In the defendants motion to dismiss (see argument, 3), they believe that because the plaintiff was convicted of resisting arrest, and has not received a 'favorable termination' regarding his conviction, his claim of Excessive Force should be dismissed. In filing a section 1983 claim regarding his 2003 arrest, the plaintiff only seeks a finding that is "consistent" with his conviction. The plaintiff was charged with three counts of Assault and Battery on Police Officers, (see Commonwealth v. Williams Docket No. 23070RC0742) in which the defendants claimed the plaintiff ~~arrested~~ injured them. The plaintiff was found Not Guilty & acquitted of all those charges by a criminal jury. The plaintiff filed the 1983 claim because of the injuries that he suffered from the excessive force used to arrest him. Not to 'collaterally Attack' his criminal conviction through a civil suit.

as is reasonably necessary to repel excessive force. Commonwealth v. Maceira, 383 MASS 596 (1983)

III Conclusion

Allowing the plaintiff's claim to proceed would not be another way for the plaintiff to redigite his resisting arrest conviction. The purpose of the complaint is to show that the arresting officers used more force than was reasonably necessary to arrest the plaintiff. Wherefore, the Pro Se plaintiff, Marlon L. Williams Sr., move this Honorable Court to allow his complaint to go forward.

Pro Se
(Plaintiff)

Respectfully Submitted,

Marlon Williams Sr. #0303857

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